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REMARKS

The Office Action of May 15, 2002, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 1-5 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-5 of prior U.S. Patent No. 2002/0046543; claims 1, 6, 8, and 10-14 were rejected under 35 U.S.C. § 102(a) as being anticipated by *Emmons* (U.S. 2001/0045078); claims 2-5, 7, 9 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Emmons* (U.S. 2001/0045078) in view of *Collavino* (U.S. Patent No. 6,092,623). For at least the reasons set forth below, Applicant respectfully traverses this rejection.

In the above double patenting rejection, the Examiner has relied upon U.S. Patent Publication No. 2002/0046543. Applicant respectfully notes that this Publication is based upon Serial No. 09/754,118, which corresponds to the present application. Since the claims of the present application cannot be double patented over themselves, Applicant submits that the double patenting rejection must be withdrawn.

All of the pending claims, claims 1-15, stand rejected over *Emmons*, either alone or in combination with other prior art. The Examiner has applied *Emmons* as a Section 102(a) prior art reference. Section 102(a) recites the following:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, ...

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Further, MPEP 706.02(a)(III) specifies that "For 35 U.S.C. 102(a) to apply, the reference must have a publication date earlier in time than the effective filing date of the application, and must not be applicant's own work."

The publication date of *Emmons* is November 29, 2001. The effective U.S. filing date of the present application is January 6, 2000. Applicant's claim to priority under 35 U.S.C. 119(e) having been perfected by reciting in paragraph one of the present application a specific reference to the prior provisional application. Accordingly, the publication date of *Emmons* is after the effective U.S. filing date of the present application and *Emmons* is therefore not prior art against the present application under Section 102(a).

Furthermore, Applicants note that the effective U.S. filing date of *Emmons* is February 12, 2000; which again is after the January 6, 2000, effective U.S. filing date of the present application, such that *Emmons* also does not qualify as prior art under Section 102(e).

In view of the above, Applicants respectfully submit that the rejection of claims 1-15 must be withdrawn.

CONCLUSIONS

In view of the above amendments and remarks, Applicant respectfully submits that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

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Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the Examiner is kindly invited to call the undersigned counsel for applicant regarding the same.

Respectfully submitted,

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